

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

THE NEW YORK TIMES COMPANY,

Plaintiff,

v.

MICROSOFT CORPORATION, OPENAI, INC.,  
OPENAI LP, OPENAI GP, LLC, OPENAI, LLC,  
OPENAI OPCO LLC, OPENAI GLOBAL LLC,  
OAI CORPORATION, LLC, OPENAI  
HOLDINGS, LLC,

Defendants.

Case No. 1:23-cv-11195-SHS-OTW

**OPENAI DEFENDANTS' NOTICE OF SUPPLEMENTAL AUTHORITY  
IN SUPPORT OF MOTION TO DISMISS**

Defendants Open AI, Inc., OpenAI L.P., OpenAI GP, L.L.C., OpenAI, L.L.C., OpenAI OpCo, L.L.C., OpenAI Global, L.L.C., OAI Corporation, L.L.C., and OpenAI Holdings, L.L.C. (collectively, “OpenAI”), by and through counsel, respectfully submit this Notice of Supplemental Authority to apprise the Court of a recent order that further supports Defendants’ pending Motion to Dismiss (Dkt. 51).

On June 24, 2024, in *J. Doe I, et al. v. GitHub, Inc., et al.*, No. 22-cv-06823 (N.D. Cal.), the United States District Court for the Northern District of California granted OpenAI’s motion to dismiss the claim under Section 1202(b) of the Digital Millennium Copyright Act (“DMCA”) for “fail[ing] to meet the DMCA’s identifiability requirement.” *See* Order Granting in Part Denying in Part Motions to Dismiss, *Github*, No. 22-cv-06823, Dkt. 253 at 4–6 (attached hereto as Exhibit 1).

Dated: July 12, 2024

Respectfully Submitted,

By: /s/ Elana Nightingale Dawson

**LATHAM & WATKINS LLP**

Andrew M. Gass (*pro hac vice*)

*andrew.gass@lw.com*

Joseph R. Wetzel

*joseph.wetzel@lw.com*

505 Montgomery Street, Suite 2000

San Francisco, CA 94111

Telephone: 415.391.0600

Sarang V. Damle

*sy.damle@lw.com*

Elana Nightingale Dawson (*pro hac vice*)

*elana.nightingaledawson@lw.com*

555 Eleventh Street, NW, Suite 1000

Washington, D.C. 20004

Telephone: 202.637.2200

Allison L. Stillman

*alli.stillman@lw.com*

Luke A. Budiardjo

*luke.budiardjo@lw.com*

1271 Avenue of the Americas

New York, NY 10020

Telephone: 212.906.1200

By: /s/ Allyson R. Bennett

**MORRISON & FOERSTER LLP**

Joseph C. Gratz (*pro hac vice*)

*jgratz@mofo.com*

Vera Ranieri (*pro hac vice*)

*vranieri@mofo.com*

425 Market Street

San Francisco, CA 94105

Telephone: 415.268.7000

Allyson R. Bennett (*pro hac vice*)<sup>\*</sup>

*abennett@mofo.com*

Rose S. Lee (*pro hac vice*)

*roselee@mofo.com*

Eric K. Nikolaides

*enikolaides@mofo.com*

707 Wilshire Boulevard, Suite 6000

Los Angeles, CA 90017-3543

Telephone: 213.892.5200

By: /s/ Thomas E. Gorman

**KEKER, VAN NEST & PETERS LLP**

Robert A. Van Nest (*pro hac vice*)

*rvannest@keker.com*

Paven Malhotra

*pmalhotra@keker.com*

Michelle S. Ybarra (*pro hac vice*)

*mybarra@keker.com*

Nicholas S. Goldberg (*pro hac vice*)

*ngoldberg@keker.com*

Thomas E. Gorman (*pro hac vice*)\*

*tgorman@keker.com*

Katie Lynn Joyce (*pro hac vice*)

*kjoyce@keker.com*

Sarah Salomon (*pro hac vice*)

*ssalomon@keker.com*

R. James Slaughter (*pro hac vice*)

*rslaughter@keker.com*

633 Battery Street

San Francisco, CA 94111-1809

Telephone: 415.391.5400

*Attorneys for OpenAI Defendants*

---

\* All parties whose electronic signatures are included herein have consented to the filing of this document, as contemplated by Rule 8.5(b) of the Court's ECF Rules and Instructions.